

REMARKS

Applicant submits this Response in response to the Office Action mailed January 25, 2005. Applicant has amended claims 1, 5, 7, 8, 12, 14, 22, 24, 26 and 27, canceled claims 4, 6, 11, 13, 15-21, 23 and 25 (without prejudice to re-presenting the subject matter of these claims at a later time), and added new claims 28-37. Claims 1-3, 5, 7-10, 12, 14, 22, 24 and 26-37 are currently pending. No new matter has been added.

In the Office Action dated January 26, 2005, the Examiner rejected claims 1-4, 8 11, 15-18, 22-23, and 27 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,535,596 to Frey et al. ("Frey") and rejected dependent claims 5-7, 12-14, 19-21, and 24-26 under 35 U.S.C. § 103(a) as being unpatentable over Frey. As Applicant has cancelled claims 4, 6, 11, 13, 15-21, 23 and 25, the rejections as to these claims is moot. Applicant respectfully traverses the rejection of the remaining claims based on the following.¹

Frey describes "a call processing system which customizes telephone services in accordance with a subscriber profile. A subscriber profile is generally any data regarding the preferences and subscriber services of a subscriber." (Frey, col. 4, ll. 3-7.) Frey describes a "call behavior module" and a "subscriber profile module" disposed between a calling party and a called party, which allow for a "uniform set of procedures for processing a telephone call taking into account all of the subscriber services and preferences of both the called party 110 and the calling party 105." (Id., col. 7, ll. 49-52.) The process described by Frey has an "end user module" associated with a calling party sending a "call setup request" to the call behavior module, where the call setup request includes the called and calling party telephone numbers. (Id., col. 8, ll. 1-2.) The call behavior module determines how to treat the call by querying the subscriber profile module, which obtains the called party profile information, and provides the call behavior module with a call treatment option. (Id., col. 10, ll. 4-14.) Call treatment options described in Frey are "1) route the call to a number, either the number as dialed or a different number, 2) notify the calling

¹ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to certain requirements applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicant that such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future.

party 105 the call will not be set up, or 3) take a message using the mailbox of the called party 110.” (Id., col. 10, ll. 7-12.) Once the call is connected, the call behavior module is described as providing similar services for additional call requests that are received while the call is connected – route the call to another number, notify the caller that the call will not be completed, or take a message using the mailbox assigned to the called party 110.” (Id., col. 9, ll. 30-41.)

Among other things, one feature noticeably absent from the description in Frey is recording dial stream information in a record associated with a party to the call. The Examiner has implicitly asserted in the Office Action that Frey does describe recording of dial stream information – asserting only that such recording is “inherent.” (Office Action, ¶ 2.) Applicant disagrees with this assessment, as nothing described in Frey indicates that any system or method as described in Frey would necessarily record “dial stream information” in a record associated with a party to a call. Another feature not described in Frey is the recording of dial stream information derived from the call connection while the call connection is established. Frey merely describes activities performed prior to call establishment or, while a call is established, activities performed prior to establishment of other calls to the same called party. Likewise, Frey does not describe analyzing such recorded dial stream information to generate a result, or providing the result to a requesting party

Also not described in Frey is any means for requesting permission to provide the result of an analysis to a recipient. Frey merely describes determining the treatment of a call – to the extent such determining can be argued to be “analysis” (which the Applicant does not support), no permission is requested for the provision of the results of the call treatment determination (connect call, do not connect call, record voicemail) to any party. The Examiner contends in the Office Action that checking group and individual profiles for service options applicable to a called party is “analogous” to requesting permission to provide a result of the analysis. (Office Action, ¶ 4.) Yet Frey describes providing the results of the call treatment determination, regardless of whether that treatment is derived from a group profile or an individual profile. (Frey, col. 12, ll. 20-63.) Thus no permission is ever requested or required for providing results of any analysis.

In contrast to description in Frey, claim 1 recites a method that includes

- receiving at least one analysis request from a requesting party;
- receiving a request for a call connection from a calling party to a called party, the call connection request being associated with the at least one analysis request;
- recording dial stream information derived from the call connection request;
- determining whether to establish the call connection;
- recording dial stream information derived from the call connection while the call connection is established;
- analyzing the recorded dial stream information to generate a result for the at least one analysis request; and
- providing the result to the requesting party.

Frey does not teach or suggest the method recited by claim 1. For example, as noted in the previous discussion, Frey does not teach or suggest “recording dial stream information derived from the call connection while the call connection is established,” “analyzing the recorded dial stream information to generate a result for the at least one analysis request” and “providing the result to the requesting party” as recited in claim 1. The absence of these elements of claim 1 from the description in Frey precludes any finding of anticipation based on Frey. As a result, Applicant believes claim 1 to be patentable over Frey, and respectfully requests that the Examiner withdraw the rejection of claim 1. As claims 2, 3, 5 and 7 depend from claim 1, and therefore include all of the limitations recited in claim 1, Applicant believes claims 2, 3, 5 and 7 to be patentable over Frey for at least the same reasons as claim 1, and therefore respectfully requests that the Examiner withdraw the rejections of claims 2, 3, 5 and 7 as well.²

Claim 8 recites a system that includes various means for performing the method recited in claim 1. Applicant believes claim 8 to be patentable over Frey for at least the same reasons as claim 1, and therefore respectfully requests that the Examiner withdraw the rejection of claim 8. As claims 9, 10, 12 and 14 depend from claim 8, and therefore include all of the limitations recited in claim 8, Applicant believes claims 9, 10, 12 and 14 to be patentable over Frey for at least the

² As Applicant's remarks with respect to the base independent claims are sufficient to overcome the Examiner's rejections of all claims dependent therefrom, Applicant's silence as to the Examiner's assertions with respect to dependent claims is not a concession by Applicant to the Examiner's assertions as to these claims, and Applicant reserves the right to analyze and dispute such assertions in the future.

same reasons as claim 8, and therefore respectfully requests that the Examiner withdraw the rejections of claims 9, 10, 12 and 14 as well.

Claim 22 recites an apparatus that includes

- a receiver for receiving a request for a call connection from a calling party to a called party, the call connection associated with at least one analysis request;
- a processor for determining whether to establish the call connection;
- a recorder for recording dial stream information derived from the call connection request for recording dial stream information derived from the call connection while the call connection is established;
- an analyzer for analyzing the recorded dial stream information to generate a result for the analysis request; and
- a transmitter for providing the result to the requesting party.

Frey does not teach or suggest the method recited by claim 22. For example, as noted in the previous discussion of the Frey reference, Frey does not teach or suggest “a recorder for recording dial stream information derived from the call connection request for recording dial stream information derived from the call connection while the call connection is established” “an analyzer for analyzing the recorded dial stream information to generate a result for the analysis request” and “a transmitter for providing the result to the requesting party” as recited in claim 22. The absence of these elements of claim 22 from the description in Frey precludes any finding of anticipation based on Frey. As a result, Applicant believes claim 22 to be patentable over Frey, and respectfully requests that the Examiner withdraw the rejection of claim 22. As claims 24 and 26 depend from claim 22, and therefore include all of the limitations recited in claim 22, Applicant believes claims 24 and 26 to be patentable over Frey for at least the same reasons as claim 22, and therefore respectfully requests that the Examiner withdraw the rejections of claims 24 and 26 as well.

Claim 27 describes a system that includes

- means for receiving a request to initiate a call from a calling party, including information sufficient to identify a device associated with a called party;
- means for associating at least one analysis request with the call;
- means for recording dial stream information associated with the call;

means for analyzing the recorded dial stream information and producing a result of the analysis,
means for requesting permission to provide the result of the analysis to a recipient;
such that the result of the analysis is provided to the recipient in response to the analysis request.

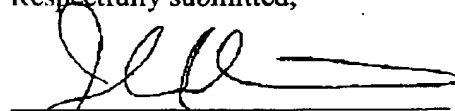
Frey does not teach or suggest the system recited by claim 27. For example, as noted in the previous discussion of the Frey reference, Frey at least does not teach or suggest any "means for requesting permission to provide the result of the analysis to a recipient" as recited in claim 27. The absence of these elements of claim 27 from the description in Frey precludes any finding of anticipation based on Frey. As a result, Applicant believes claim 27 to be patentable over Frey, and respectfully requests that the Examiner withdraw the rejection of claim 27.

Applicant has added new claims 28-37. Claims 28-31 are dependent from claim 1, and Applicant therefore believes claims 28-31 to be patentable for at least the reasons set forth for claim 1. Claims 32-37 recite methods Applicant believes are not taught or suggested by the cited art, and therefore respectfully requests the allowance of claims 32-37.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that the pending claims are in condition for allowance. Reconsideration and allowance are respectfully requested. If there are any outstanding issues which need to be resolved to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned representative by phone at the number indicated below to discuss such issues. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. With respect to this application, please charge any other necessary fees and credit any overpayment to that account.

Respectfully submitted,

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